

Delaware Real Estate Law Update

Friday, October 31, 2025

New Castle County Property Owners' Challenge to Increased School Tax Rates for Non-Residential Properties Pursuant to House Bill 242 is Denied

On October 30, 2025, in the decision of [*Newark Property Association, et al. v. State of Delaware, et al.*](#), C.A. No. 2025-1031-LWW, the Delaware Court of Chancery has sided with the Defendants and ruled that [House Bill 242](#) ("HB242"), which permits school property tax rates to temporarily be reset and differentiated between residential and non-residential properties, does not violate the United States Constitution, the Delaware Constitution, or Delaware statutes.

HB242 was enacted on August 12, 2025 by the Delaware General Assembly in order to account for the fact that residential property owners' share of the New Castle County tax base increased following the recent general reassessment, while the non-residential property owners' share decreased, which caused the tax bills for many residential homeowners to increase. HB242 permits school districts within New Castle County to reset their rates and temporarily enact a "split-rate" system, applying higher tax rates to non-residential properties, including, without limitation, apartment buildings with at least 5 units, as well as hotels and motels, thus shifting the tax burden to commercial property owners. However, this only applies to the 2025-2026 tax year.

Going forward, New Castle County property owners should expect to see supplemental tax bills based on the bifurcated rates soon. The bills will have an extended deadline for payment of November 30, 2025. In the event a taxpayer already submitted payment of the original tax bill and their tax liability decreases based on the resetting of the school tax rates, the overpayment will be credited against such taxpayer's future tax liability (unless they request a refund in writing). The Court ordered New Castle County to include a notice of any reclassification of the subject property with the supplemental property tax bills, as well as a description of the dispute process for the reclassifications.

If you have any questions, please contact a Richards, Layton & Finger real estate attorney.

